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ABSTRACT

Congress is often ambiguous on legislation involving the interests of society's functional groups but is more specific on legislation involving territorial interests. Researchers tested three propositions about congressional action on territorial versus functional matters in education. The three propositions are that Congress (1) is more explicit on territorial than on functional issues, (2) decides territorial issues through consensus, and (3) is less likely to divide on partisan or ideological lines over territorial issues. Data were derived from analysis of 372 amendments in eight areas of educational legislation from 1960 to 1979. Review of the legislation finds that Congress drafts educational bills with greater precision when territorial interests are involved. This confirms the first proposition. The clarity of political consequences in territorial issues may explain Congress' greater precision. Findings that amendments on territorial issues are less likely to pass, have roll-call votes, be decided by close votes, or, once passed, be changed later, confirm the second proposition. The third proposition is confirmed by findings that territorial issues engender fewer partisan votes and fewer North-South, ideological splits among Democrats. Among the researchers' conclusions is that new federalism policies may involve territorial as well as functional considerations. (Author/RW)

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TERRITORIAL INTERESTS AND
EDUCATIONAL POLICY

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Abstract

While educational policies of interest to occupational and other functional groups are generally treated by Congress in vague terms, thereby leaving considerable discretion to administrative officials, Congress treats educational issues of interest to states, localities and other territorial units in highly explicit terms. On territorial issues, Congress is also less likely to overturn the recommendations of its committee, is less likely to amend its appropriation bills, and makes its decisions with less partisan and ideological controversy.

These propositions are supported by an analysis of amendments offered to educational legislation considered by Congress between 1960 and 1979.

Even at the height of the federal influence in education most federal rules guiding school policy had but a vague statutory base.¹ The conditions under which federal grants-in-aid were released to states and localities were typically formulated in bureaus of the Office of Education; they appeared in the Federal Register after consultation with the diverse groups and interests who scurried about the halls and corridors of Washington's executive offices, but they were nonetheless largely designed by administrative fiat. Congressional involvement was typically indirect, ad hoc and informal. Executive branch officials may have consulted with the chairmen of relevant subcommittees or senior members of their legislative staff. Other Senators or Representatives may also have attempted to persuade bureau chiefs of a particular set of regulatory language. Yet Congress, as a corporate entity, seldom legislated clearly on the rules and regulations it believed appropriate for American schools.

Indeed, Congress at times included within one piece of legislation language that seems frankly self-contradictory. It proclaimed in 1974 the necessity of providing each handicapped child with an education suited to its needs and abilities, but it subsequently appropriated sums which only began to achieve this goal. Earlier, Congress stated its firm intention to leave the control of education to states and localities, but it nonetheless mandated requirements and procedures substantially limiting local autonomy. Congress authorized assistance to school districts undergoing processes of school desegregation, but in that same law it forbade the use of these monies for pupil transportation, one of the major costs of desegregation. Congress has insisted that bilingual programs be developed in such a way as to preserve the cultural heritage of those enrolled, but it has also mandated that students leave these programs as soon as the student becomes proficient in the English language.²

Ambiguity was evident not only in these internal contradictions, but, in addition, most educational legislation has contained vague statements of lofty goals combined with only general provisions for implementation. For example, Congress declared itself in favor of training programs to end youth unemployment, compensatory education to equalize educational opportunity, school desegregation to eliminate racial isolation, and special provision for those with limited proficiency in the English language. Yet the laws left unspecified how these goals are to be achieved. To be sure, an administrative agency was charged with overall responsibility, and various groups and

interests are given the right of consultation. Congress authorized and then appropriated certain sums for each task, and it mandated some form of program evaluation. Yet the crucial details affecting program development were typically left to what has become known as "processes of implementation."

So vague has been Congressional intent and so lofty have been its stated goals that an entire academic industry took as its responsibility the documentation of the failure to implement.³ These implementation studies have discovered that, despite federal efforts, employment for minorities was not provided, disadvantaged children did not learn more, many children whose mother-tongue was Spanish did not learn English, a racial isolation continued, and programs for the handicapped fell far short of need. In most studies, program failure was explained by the complexities of the task being faced, the difficulties inherent in changing long-established institutions, and the bargaining that takes place among competing interests.

While the importance of these factors can scarcely be denied, often the difficulties began with the piece of legislation establishing a program in the first place. No matter how noble the objectives, they can hardly be achieved if the procedure for doing so is left largely unspecified. When Congress passed the buck to the bureaucracy, it encouraged the further shifting of responsibilities down the line. In the end, all participants in the implementation game could point the finger of shame elsewhere.

It is now fashionable to suggest that this kind of Congressional buckpassing was a byproduct of the Great Society, an era when soft-hearted idealists thought they could solve all social problems by throwing federal money at them. But Congressional ambiguity is a more firmly established part of the American political tradition. The very first federal grant-in-aid to secondary education, the Smith-Hughes Act, proclaimed its intention to reduce youth unemployment. Except for authorizing twenty million dollars for vocational education, Congress delegated most of the specific decisions to other political institutions. In the late 1950s Congress declared its intention to preserve the national defense by enhancing the scientific manpower of the nation. Once again it authorized money for the purchase of scientific materials and equipment but it gave very little further guidance to administration. Twenty-five years later many observers still believed that the nation's defense remains in peril.

Functional and Territorial Interests in Educational Policy

Ambiguity is dictated in part by Congress' inability or unwillingness to choose among the numerous, competing interests continuously thrust upon it. The most well-known are the interests of the manifold functional groups in the society that are eager to preserve or enhance their social place. While they may

be the most well-entrenched, Congress is also besieged by demands from women, minorities, and religious groups. In addition, cause-oriented enthusiasts, including environmentalists, governmental reform groups, and welfare reformers, find their niche in the halls and lobbies of Washington. Yet there is one set of interests that enjoys immediate and direct access to the legislative system but which receives only passing commentary in the public policy literature. These are the interests of the various states and localities from which Senators and Representatives are chosen. Although these territorial interests only occasionally become the basis of external organized group activity, their consideration pervades the discussion of numerous legislative issues.

At first glance it may seem inappropriate to attribute interests to spatial aggregates. Is it not the case that only individuals have the needs, hopes and desires that generate political interests? Is it not a medieval mystification to claim that Chicago and New York, like Bristol, England, have interests that need legislative protection?⁴ Yet these cities contain within them millions of people whose economic and social lives are fundamentally affected by the spatial effects of government policy. In fact many of the most significant social roles performed by individuals are conditioned by their residence.

One's spatial location fundamentally determines one's access to employment opportunities, social relationships, cultural amenities, and public services. It might even be claimed that in modern societies what one does and where one lives constitute the two most salient social facts. If this be the case, then territorial and functional (or occupational) interests constitute the two major polarities around which political life may be organized. In the United States these two polarities are organized politically in significantly different ways. While functional interests are represented largely by organized groups whose formal position is largely (though not exclusively) external to government itself, territorial interests, typically not the basis for group action, are given direct representation within legislatures. Elections are held within specific territorial boundaries; representatives seek re-election from spatially defined units, and Senators are officially identified by the state from which they hail. By comparison with functional interests, territorial interests are privileged indeed.

The privileged place of territorial interests in Congress affects the way in which issues affecting them are treated. In the ensuing pages we shall provide a preliminary test of three propositions concerning the differences between the way in which Congress acts on territorial as distinct from functional matters. The results of this test will allow us to consider in our concluding section the reasons for Congressional ambiguity on many functional issues and the probable direction of current efforts to establish a new federalism. Our three propositions are as follows:

1. Congress is likely to legislate more precisely on issues of interest to territories than on issues of interest to functional groups. On topics of interest to people in their occupational role, Congress appears to legislate in broad and general terms. Indeed, it is now a shibboleth of American politics to say that Congress favors "vague laws and broad delegations."⁵ Moreover, implementation of these laws has become so complex and tortuous in part because Congress, eager to achieve a consensus, leaves all the hard issues unresolved at the legislative stage of consideration. But while much legislation is vague and general, territorial policy-making is quite different. On these issues Congress finds the greatest expertise and the most directly affected group leaders within its own ranks. In this area Congress is especially skeptical of claims that either the executive departments or any designated group advisory committee has a greater capacity to find just or workable solutions. Because its own membership is likely to bear the brunt of politically inappropriate resolutions of territorial conflict, Congress generally treats these issues with remarkable precision and exactitude.

2. Congress find it easier to mediate interests and to reach widely acceptable political compromises on territorial than on functional issues. On functional issues the most interested parties are not themselves formal participants in the process of legislative deliberation. As a result, each side presses its case with a fervor born partially out of a concern that its views will otherwise be totally ignored. On territorial issues the leaders of the interested parties are Congressmen themselves who not only have a correct sense of direct involvement in decisions but recognize that in their capacity as government officials they have a responsibility to the interests of the public as a whole. Moderation and accommodation is likely to prevail.

Interestingly, this same proposition is often used to justify corporatist systems of representation. Advocates claim that where functional groups are directly represented in policy formation processes, they will moderate their demands, search for acceptable compromises, and take the national interest into account in the course of their deliberations. If their argument is correct, then one should find differential Congressional treatment of territorial and functional interests.

3. Congress is less likely to divide along ideological and partisan lines in the case of territorial issues. Ideologies and partisan affiliation are more likely to guide action when uncertainty of outcome is greatest, information is less complete, and attention to specifics is least important. Since members of Congress legislate on an extraordinary array of diverse issues, they cannot be even adequately informed on more than a small percentage. For the most part they must rely on partisan, ideological, or some other cueing mechanism. But on matters that directly affect their territorial unit, taken as a whole, they are particularly vulnerable politically, and they are likely to

attend (or ask their staff to attend) to these matters with particular care. In Congress it is at least as legitimate to vote one's constituency as to vote one's conscience, and territorial issues are especially likely to provoke constituency consciousness. As a result, partisanship and ideology play a lesser role.

To test these propositions requires that one make a clear distinction between territorial and functional interests. Yet, as we know, where one works and where one lives are mutually interactive, and thus territorial and functional interests often overlap, complicating analysis of their distinctive political treatment. For example, it is not easy to distinguish Detroit's territorial interests from the functional interests of the automobile industry. Because certain functional interests are concentrated in specific geographical locations, representatives from these regions become identified with the interests of a particular type of economic activity. Jesse Helms eagerly defends the interests of tobacco and sugar, Congressman Robert Wilson (of San Diego) was often said to be the Navy's representative, and Henry Jackson is sometimes said to be the Senator from Boeing. Yet the humor in the last aphorism stems from its incongruity. In the end Jackson comes from Washington, not Boeing, and the interests of the one cannot be reduced to the other.

Education is one policy area where the separate effects of functional and territorial interests can be examined most easily. In educational issues, the distinction between territorial and functional interests is especially sharp because the territorial impact of most policies is largely distinct from their functional impact. The reasons for this are threefold. First, public schools are nationwide institutions that serve roughly the same percentage of the population in every state and Congressional district. While the territorial impact of education policies varies with differences in the size of a community's school-age population and the frequency of nonpublic school attendance, it remains the case that federal education policies can have substantial impacts almost everywhere. Thus, every Representative and Senator has a more or less equal territorial interest in education issues, and there is little territorial reason for anyone to be called the Senator from the schools.⁶ Secondly, not only are schools to be found in every Congressional district, but even more focused categorical programs in education have a broad, national impact. Schools in every Congressional district, for example, have been eligible for monies authorized under programs for vocational education, compensatory education, and special education for the handicapped.

Thirdly, functional and territorial questions in education have frequently been given separate examination on the floor of the House of Representatives. Between 1960 and 1979 Congress has

legislated on educational policy by means of the following major laws and programs: the National Defense Education Act, the Elementary and Secondary Education Act, the Emergency School Aid Act, the Education of All Handicapped Act, aid to federally impacted areas, vocational education and bilingual education. Three hundred seventy-two amendments were offered to these pieces of educational legislation. Of that number seventy-five amendments dealt largely or entirely with the formulae for distributing funds among states and localities. Another eighty-seven amendments altered the functional purposes of the educational program. Some of the functional amendments pertained to the general purpose of the act, such as defining the eligible population to be served; other amendments specified the way in which funds could be used and the items that could be purchased under the act. Most of the remaining amendments, which we are excluding from this analysis, either dealt with overall funding levels, contained riders unrelated to the Act, raised the controversial "busing" issue, or were procedural in nature. See Appendix for details. As can be seen in Table 1, territorial issues arose proportionally less frequently in the Senate than in the House where smaller, less diffuse constituencies may exacerbate attention to territorial questions. Yet territorial issues were also of sufficient interest to Senators that the amendment processes provide a rich, unmined source of information on the differences between functional and territorial interest representation on both sides of Capitol Hill.

Proposition 1: Congress is Explicit on Territorial Issues

While Congress is frequently opaque when formulating functional school policy, on territorial issues it typically drafts with considerable precision. If the uses for funds can only be vaguely apprehended, there is often little doubt as to the places where the money is to be spent. Consider, for example, the impact aid program, which gives money to school districts "impacted" by the presence of federal personnel. On functional matters no federal program could be more loosely defined than this one. Congress merely provides local school districts with monies which they can use for any operating purpose local school boards deem appropriate. But ever since its original passage during World War II the impact aid program has been beset by controversies over the appropriate distribution of funds among school districts. Initially, the program gave funds only to districts to help cover the costs of educating children whose parents both lived and worked on military property. Gradually, the definition of "federal impact" was broadened to include parents who either lived or worked on federally owned (or subsidized) property. With each reauthorization of the legislation Congress has rewritten the terms by which monies would be dispersed among school districts; in every case, the exact formula was written into law, and administrators were given little or no discretion in deciding which districts would receive what proportion of the funds.

The well-known compensatory education program funded under Title I of the Elementary and Secondary Education Act, the largest of all federal education programs, contained highly specific instructions as to the way in which funds were to be distributed. While the functional purposes of the law were left vague--many school officials believed the program to be little different from impact aid, while many civil rights groups thought the money was to be used exclusively for the education of low-income pupils--the distribution formula, though hardly simpler, left virtually no room for administrative discretion. When the legislation was first passed in 1965, it distributed funds according to two major factors: the number of children from low-income families living within the school district and the average cost per pupil of education within that state.⁸ While the formula seemed quite consistent with the objective of serving disadvantaged children, Republican critics argued that some of the school districts that would receive the most resources were fiscally well-endowed. They proposed instead that the program offset existing inequalities in local fiscal resources. But the Democratic majority prevailed against this criticism, perhaps because the funding formula tended to favor large central cities and Southern rural areas, the two areas of greatest Democratic strength.

Within two years after the legislation had been passed, efforts were made to modify the formula so as to shift the funding away from the highly industrialized Northeast, which, with its large number of low-income families and high educational expenditures, had been favored in the original program. In 1967, for example, southern Congressmen found (by means of a computer simulation) that southern states, which spent relatively low amounts on education, would greatly benefit if the formula were based on the national average expenditure rate instead of the state-wide average. Some accommodation in the funding formula was accordingly made. In light of a number of critical program evaluations showing that wealthier districts received more Title I funds, further changes were made in the course of the reauthorization of 1970, which "generally shifted the aid from wealthier urban states to the poorer, rural ones."⁹ In 1974 the debate centered on the extent to which the number of children receiving public welfare assistance should be counted. Since wealthier, more industrialized states tended to have the least restrictive welfare practices, it was argued in Congress that "the wealthier a state, the more likely it is that it will . . . be able to add AFDC children under Title I."¹⁰ While Shirley Chisholm, Representative from New York argued that reducing the importance of this provision of the formula "represents a retreat from the intent of Title I to assist those areas with large concentrations of need,"¹¹ the distribution formula was further modified. The kinds of arguments Republicans had made in 1965 had become more persuasive once Republicans gained greater strength at both ends of Pennsylvania Avenue.

By 1978, when the legislation was being considered for reauthorization for a third time, Democrats were once again in political ascendance, and new changes in the distribution formula were proposed. A study by the National Institute of Education had shown that little was to be gained from, and great complexity would be introduced by, changing the formula from the incidence of low-income to the incidence of children whose educational performance was deficient. Another study, which in the new political climate was well received, argued that "the fiscal and educational needs of the high expenditure metropolitan states and their major cities deserve greater consideration than they received from Congress" in 1974.¹² As a result, in a formula made increasingly complicated by the various amendments that had gradually accrued, the large cities gained back some of their initial advantage. Even before these amendments took effect, the distribution of funds had favored the Northeastern cities and Southern rural areas, the original winners in the territorial contest (see Table 2).

Three themes are to be noted in these Title I deliberations. First and most obviously, even though many of the programmatic aspects of Title I were left to the Office of Education discretion, the territorial distribution of funds left the Office virtually no room for maneuver. Instead, funds were allocated according to a strict formula that specified exactly how much weight was to be given to each factor in the fiscal equation. Secondly, Congress attended so carefully to the geographical impact of its programs that it regularly amended its policies, as political majorities shifted.

A strong northeastern and southern bias in the first years of the program was modified in the early seventies, as midwestern and western influences gained in strength, only to be modified a third time as political currents changed again. Thirdly, the kinds of evaluations that seem most highly prized by Congress are evaluations of territorial impact. For example, the National Institute of Education conducted a massive study of Title I, which it reported to Congress in 1977. Although the analysis provided comparatively little information on the effects of the program on student performances, it overwhelmed Congress with a detailed analysis of the alternative territorial impacts of various funding formulas.¹³

What was characteristic of impact aid and compensatory education was no less true of the federal government's program of assistance to school districts undergoing school desegregation. Originally, the White House proposed in 1969 that one-third of the monies be allocated to local school districts at the discretion of the Office of Education. It also wanted the remainder of the funds to be distributed according to a formula which took into account the number of minority pupils living in districts required to desegregate by court order. However, Congress, preferring to disperse funds more widely among the states, changed the formula so that 90 percent of the funds were distri-

buted simply in accord with the number of minority pupils living in a state. Discretion was reduced, even at the price of shifting monies away from desegregating school districts, the apparent beneficiaries of the program. As vague and inconsistent as Congress proved to be on the purposes for which desegregation monies were to be spent, it knew its precise mind when it came to the territorial distribution of funds.

The geographic distribution of other educational funds has been given much the same specific definition by Congress. The large, rapidly growing special education program for handicapped children pays for the costs incurred by school districts in excess of the normal cost of educating a child. Monies are distributed according to the number of handicapped children and the amount of excess cost in providing for their education. Vocational education monies are also distributed among the states according to an exact formula based on the number of pupils in the state, state income, and other factors. Funds for the instructional resources program, an outgrowth of the National Defense Education Act, were also distributed among states by a formula which counted each pupil in a district equally. In all three of these programs, the uses for which educational monies were to be spent was defined only in the most general terms; yet the allocation of funds among school districts left virtually no discretion to Washington administrators whatsoever.

Bilingual education is the one sizeable federal program in education that stands as an exception to the pattern we have identified. Since it was originally established as a demonstration program, the Office of Education was given considerable discretion in selecting local school sites where interesting bilingual programs could be supported. However, as the program grew in size, Congress increased pressure for dispersing funds geographically among more school districts in diverse regions of the country and among various ethnic groups. Representatives from Maine, for example, insisted that bilingual education for French-speaking Canadians be supported by bilingual funds, and Congress then provided for such a program within the legislation. If bilingual education should continue as a major activity sponsored by the federal government, it is very likely that the geographical basis for distributing funds is likely to become increasingly fixed in statute.

Why is Congress Explicit on Territorial Issues?

On many occasions, Congress is most prudent when vague and ambiguous. When passing a law which cannot be easily altered, Congress must take into account the fact that a wide variety of factors over which it has no control may affect program development.¹⁴ A certain flexibility must be left to the departments and bureaus simply to allow for adjustment to changing circumstances. In fact when Congress has been inappropriately specific, it has encountered repeated difficulties. When Congress established specific auto emission

control standards to be implemented by a particular date, it subsequently found it necessary to modify the standards and postpone the date of enforcement. In education highly specific due process provisions for parents of handicapped children have escalated service costs to local school districts beyond all expectations. Quite clearly, ambiguity is not appropriate when information about probable impact is uncertain.

The clarity of policy consequence is thus one reason why Congress legislates so explicitly on territorial issues. To the extent that the formula for reserve distribution is based on population characteristics as determined by the U.S. Census (as in part has been the case with compensatory education, vocational education, desegregation, and instructional materials programs), to that extent the dollar impacts on specific Congressional districts could be known precisely. Even when the informational base is less readily available (e.g., impact aid, which is a function of the numbers of children whose parents live or work on federally-owned property), estimates of differential territorial impacts can be readily calculated. Especially with the increased capacity of high-speed computers, Congress finds it not too difficult to estimate what places will get wheat from a given program. Improved information undoubtedly leads to explicit policy formulation.

In addition, the condition which Congress is addressing may compel a certain distributional formula. If a program is to help the handicapped, the distribution of funds should take into account the incidence of handicapped children. If the program is for school desegregation, it should be allocated to districts where desegregation is occurring. If a program is for compensatory education, the distributional formulae must take into account the incidence of socially and educationally disadvantaged youth. If the program is a block-grant program or a general aid program for, say, instructional materials, the formula should take into account the number of pupils served by a local educational authority.

But while the distribution formula must bear some plausible relationship to the purpose of the bill, there is so much room for argument that this fact cannot by itself account for Congressional explicitness on territorial issues. While aid for the handicapped should be related to the number of handicapped, should the federal government give the same amount per handicapped child to each district or should it take into account varying educational costs among districts? Should aid for compensatory education be a function of local district fiscal capacity? Should desegregation aid be based on the number of minority children in a district or the number of children in a desegregated setting? These issues can be and have been debated by the leaders of competing territorial interests.

In the end, settlements are based on political realities as much as on the objective merits of any particular formula. As we

have seen in the case of Title I, when the Democrats are in the ascendancy, educational formulae have tended to benefit the large cities and the northeastern parts of the United States. When a conservative coalition of Republicans and southern Democrats gain strength, efforts are made to shift the allocation of funds to smaller cities, more rural areas, and to the south and west. In these political struggles each side authorizes studies and presents evidence designed to show the justice of its political position. But as we shall see later, in the end the issues tend to be resolved on a compromise basis that wins general acceptance.

One solution that Congress might resort to is sheer ambiguity. On functional issues Congress seems to use vague formulations and actual self-contradictions as a way of resolving political differences. Politics is the art of compromise and part of that art is to find ambiguous language to which all--or at least a majority--can give their consent. Internally contradictory language is approved because one faction insists on one clause while another faction insists on another that points in virtually the opposite direction. Coalition building in a legislative body involves not only the inclusion of provisions that appease particular groups and interests but also, and perhaps even more importantly, the phrasing of legislation in such general terms that everyone can see what they wish in the provisions. Politicians live by the slogan that a half of a loaf is better than none. For that reason fervent supporters of a new program accept funding at a much lower level than what is necessary to achieve program objectives. Similarly, potential opponents go along with a policy innovation because at least in the short run the costs do not seem excessive, while the vague ideals are dismissed as mere rhetoric.

But if Congress finds ambiguity a solution to political differences on functional issues, it treats territorial issues quite differently. While the availability of more information may in part account for the higher degree of explicitness, that, in our view, is not the only factor. In addition, Congress includes within its own ranks the leaders of territorial interests. Because the effect of policies on his territory can have such a direct effect on his political future, each representative in Congress "cares" about policy outcomes on territorial issues. Senators and Congressmen know that once a bill is passed, ambiguities remaining will be resolved by executive departments less concerned about precise territorial impacts. Under the circumstances Congress labors to find an explicit resolution to the issues with which the membership can live. On matters of high concern to them, members of Congress do not allow others to determine the outcome.

Proposition II: Congress Decides Territorial
Issues Consensually

Significantly, Congress is able to legislate explicitly on territorial questions with comparatively little controversy. In the first place, territorial questions are less likely to provoke a roll call vote than functional issues. As can be seen in Table 3, only 28 percent of the territorial amendments were decided by roll call, while 41 percent of the functional amendments were. In some ways, this finding is counter intuitive; one might expect that Congressman would like to establish an explicit record of support for the home-town. Yet the urge for consensus on territorial issues may over-ride any propensity to "grandstand." Members of Congress may have learned that territorial questions require sensitivity both to regional interests and to the overall purpose of the legislation. Since not everyone can show a disproportionate district dividend on every issue, it is better to fashion less visible compromises that nonetheless take the range of interests into account. On functional questions, however, the leaders of interested parties are less directly involved, and Senators and Representatives may be more concerned that they will be accused of "selling-out" by group leaders if they establish a public voting record.

Secondly, territorial issues are also less likely to be decided by a close vote than are functional issues. As can be seen in Table 4, over three-fourths of the territorial issues were decided by a lop-sided margin, while less than 60 percent of the functional issues were. Significantly, even though calculations of the minimum winning coalition would seem to be the easiest on territorial issues--i.e., computer print outs could inform members fairly exactly what the territorial distribution of funds will be--Congress seems to try hard to arrive at a broadly acceptable formula.¹⁵ It appears as if Congress acts according to the norm that territorial interest are legitimate, that leaders of such interest (who are in fact their fellow legislators) have a right to express their views, and that resolutions of differences should be politically fair. Given the highly repetitive character of the legislative game, such an attitude only makes sense. An indefensible, one-sided policy imposed by the dominant coalition on one territorial issue might provoke the formation of an alternative, even more punitive coalition the next iteration of the game.

Thirdly, proposed territorial amendments are less likely to pass than are functional amendments. Table 5 shows that whereas two-thirds of all proposed functional amendments are adopted, just 41 percent of the territorial ones are. Apparently, it is on territorial issues that the subcommittees and committees of Congress are better able to gauge correctly the sentiments of the House and Senate as a whole. Since the interested parties are well-defined, and the relative power of various leaders can be estimated fairly accurately, the success of the committees is probably not surprising.

Fourthly, territorial amendments, once passed, tend to be accepted as legitimate as long as the legislation itself remains authorized. This is evident from the small number of changes in territorial policy proposed as amendments to appropriations bills. To be sure, members of Congress are generally reluctant to propose amendments to appropriations bills on the floor of Congress. For one thing, it interferes with the prerogatives of the authorizing committees; in addition, it raises old conflicts that supposedly had been resolved when the authorizing legislation had been passed. Consequently only 21.6 percent of all the amendments proposed in our sample were attached to appropriation bills. Yet Table 6 shows reticence to amend appropriations bills is especially great on territorial issues. Of the amendments proposed to appropriations bills only one-third were territorial, whereas on authorization legislation territorial amendments were 50 percent of all amendments. In sum, Congress decides territorial issues by backing its committee system in one-sided, non-roll call votes; when it reaches a decision, that policy is likely to remain firm until the program comes up for reauthorization.

Proposition III: Territorial Issues are not as Partisan

We hypothesized that constituency concerns would dominate partisan and ideological attachments on territorial issues. Consistent with these expectations, the data in Table 7 show that on roll call votes territorial issues provoked a higher level of partisanship 33 percent of the time, while functional amendments did so in 42 percent of the cases. Similarly, ideological conflict, as indicated by the significance of the split between northern and southern Democrats, appeared in 53 percent of the functional cases but in only 29 percent of the territorial ones.

From these findings, it may be reasonably inferred that the visibility and directness of the stakes on territorial questions reduces the need for partisan or ideological cueing mechanisms. Members of Congress (or their staff) know precisely enough what the impact of a law will be on territorial issues (in which they have a direct stake) that they pay much less attention to the positions of their usual friends and allies.

Conclusions

Congress does well at resolving territorial issues. It legislates explicitly, it affirms the work of its committees, it reaches a broad political consensus, it remains resolved in its political course, and it takes these decisions without undue partisan or ideological bitterness. Clearly, territorial interests are well-integrated into the institutionalized bargaining processes that mark our legislative system. These findings suggest the following conclusions:

1. Congress has delegated responsibility for adjudicating functional group conflict to the executive in part because the executive has evolved better mechanisms for resolving differences among functional interests.

2. Congress, by resolving territorial differences explicitly, has weakened the national government's capacity to execute functional policy.

3. Positions on new federalism policies may be based as much on territorial as functional considerations.

1. The separation of powers between the legislative and executive branches may have separated institutional consideration of territorial and functional issues. On the legislative side, careful, explicit attention is given to regional, state and other territorial balance. While relationships among functional groups are also the subject of legislative action, important details are left to the departments and bureaus of the executive branch, to state and local governments receiving grants-in-aid, and to numerous advisory groups who are frequently given legal status in the policy implementation process.

The executive branch is in many ways better equipped to undertake the task of choosing among competing functional interests. Its departments and agencies are typically organized along functional lines, its high-level staff is often recruited from the functional sector served by the policy, and formal processes of group consultation have become an institutionalized part of its day-to-day operations. Vocational education policy, for example, is developed by administrators at national, state and local levels who communicate regularly with business and labor leaders. Compensatory education programs, too, are a compromise among the competing interests of teachers, local district administrators, representatives of parent organizations, and organizations of para-professionals.

2. The resolution of functional differences in the processes of implementation still remains affected by Congressional decision-making in certain unintended ways. By legislating explicitly on territorial issues, Congress limits the capacity of national administrators to control the policy choices of state and local officials. If all states and localities competed with one another for federal funds, each would have a powerful incentive to propose (and execute) programs consistent with nationally determined objectives. Failure to do so would entail loss of federal monies to a competing jurisdiction. But once Congress mandates a particular territorial distribution of funds, the most valuable political lever available to federal officials is taken away from them. Instead of using federal resources as an incentive to encourage local policies in desired directions, they may only issue regulations that attempt to coerce local policies into

preferred channels. If locals resist the coercion, the federal government faces a choice between minimal compliance or no program at all. Because monies cannot be shifted to another location, program officials nationally are usually inclined to settle for no more than "half a loaf." Even if the actual processes of policy implementation do not make these bargaining terms explicit, their presence may nonetheless condition what all parties to the implementation game perceive to be feasible.

3. The Reagan Administration, as part of its "new federalism" policies, has proposed the substitution of block grants in education in the place of previously existing categorical programs. These proposals call for even greater legislative ambiguity in program definition, leaving to state and local executive officials the responsibility of resolving functional issues. Indeed, successful promulgation of this policy would make nearly all federal education questions "merely" territorial ones.

In some ways these proposals could well make institutional sense to a Congress whose members are primarily concerned about the well-being of their territories. In the past general revenue sharing proved to be politically popular with Republicans and Democrats alike in part because it relieved Congress of the responsibility of resolving functional group conflict. Congress also partially accepted the block grant approach in education in 1981 when it passed as Chapter II of the education bill a general aid bill to the various states and localities.

Yet Chapter II turned out to be a much smaller part of the total 1981 educational program than the Reagan Administration had originally intended. Compensatory, handicapped, impact aid, and bilingual education all remained separate from the Chapter II block grant. In part this outcome was the product of strenuous efforts by specialized groups who lobbied effectively on behalf of their specific concerns. Yet the territorial consequences of the shift in educational policy posed an additional obstacle to Administration efforts. Since the purpose of a block grant was to provide general aid to the schools, the formula allocating resources would necessarily be considerably different from the old special education and compensatory education formulae. Generally, the winners under the new formulae were likely to be more suburban, Western, and Republican parts of the country. Not only did this generate stout Democratic opposition, but even Republicans from the Northeast found it difficult to support the policy innovation. While in the end a compromise introducing some (but not too much) change was accepted, territorial issues remain a thorny problem for the new federalism. But in the end, one should not exaggerate the problems territorial issues pose for the new federalism. If Congress is sensitive to these questions and understandably wants them resolved explicitly, it also has shown a capacity to put partisanship to one side and reach reasonable compromises that win general acceptance.

Appendix

Information on amendments to legislation in eight education policy areas were gathered. They were Aid to Federally Impacted Areas; Title III of the National Defense Education Act; Instructional Resources funded under Title I-B of the Elementary and Secondary Education Act (ESEA); compensatory education funded under Title I of ESEA; bilingual education; Education for all Handicapped Children Act; vocational education; and desegregation assistance funded under the Emergency School Aid Act. Many of these programs were funded under a variety of legislative authorizations, and amendments to all relevant legislation were included in the analysis. We also included amendments to an overall piece of legislation (e.g., ESEA), even though it pertained to more than one of the above-mentioned programs. These amendments are classified as "General" in Table A-1.

Amendments were classified as involving territorial interests, if they pertained to the distribution formula by which the program's funds were to be allocated among states, localities, or school districts. In eleven instances, territorial amendments also included other proposed changes, usually involving alterations in the overall level of funding. Amendments were classified as affecting functional interests, if they pertained to the general purpose or definition of the legislation, including the definition of eligible beneficiary groups, the administrative entity responsible for the program, the way in which policy funds were to be used, or what could be purchased under the Act.

As can be seen in Table A-1, many other proposed amendments were excluded from the analysis. Votes on overall funding levels were excluded because they could be a function of both territorial and functional concerns. The same is true of votes on procedural questions, including motions to suspend the rules, to recommit to committee, to table, and so forth. We also excluded riders to legislation that were unrelated to educational policy. A few other amendments, such as those changing the length of the period of authorization and the power of the courts to rule on the constitutionality of the legislation, were also excluded on the grounds that their relevance to territorial or functional interests could not be ascertained. Finally, we excluded the large number of busing amendments that were (for the most part) proposed in connection with the Emergency School Aid Act of 1972. Had they been included in the analysis, the race issue would have dominated the results.

Table A-1 identifies the distribution of the types of amendments across educational policy areas. The compensatory education and impact aid programs were most subject to territorial amendments, in part because they were fiscally two of the largest programs and partly because they allocated monies specifically to school districts (and not just among the fifty states, as was the case with the vocational and ESEA programs).

Table A-2 shows that the number of amendments offered also varied by Administration, as educational issues became an increasing topic for Congressional attention over time. During the Ford Administration, when Congress seized the initiative on educational policy, the amendments were offered at a particularly high frequency. While the number dropped subsequently, the relatively high number of proposed amendments during the Carter years is quite consistent with the argument that the Congressional committee system in the 1970s was weakened by a variety of Congressional reforms. However, nothing in Table A-2 indicates that these changes affected territorial and functional issues differently.

Table 1

Percentage of Functional and Territorial Amendments
Within Each House of Congress

	House	Senate
Functional	46%	60%
Territorial	54%	40%
Total	<u>100%</u> (76)	<u>100%</u> (86)

Table 2 Title I Allocations by Region and Place Type, per School-Aged Child, 1975-76

Place Type	Region			
	Northeast	North Central	South	West
Central city	\$58.24	\$38.02	\$40.81	\$31.58
Large	67.03	44.94	41.29	33.79
Other	37.11	24.94	40.12	26.83
Suburbs.....	17.77	14.22	26.42	22.80
Urban.....	17.52	13.02	21.34	21.49
Rural.....	18.53	17.32	35.76	30.12
Nonmetropolitan.....	29.18	27.46	54.14	34.53
Urban.....	27.80	20.39	44.95	28.94
Rural.....	29.89	31.63	58.71	39.05

SOURCE: National Institute of Education, Title I Funds Allocation: The Current Formula, (Washington, D.C.: Department of Health, Energy and Welfare, 1977), p. 1112.

Table 3

Functional and Territorial Amendments
By Type of Vote Taken

	Functional	Territorial
Roll Call	41%	28%
Voice and Other	59	72
Total	<u>100%</u> (87)	<u>100%</u> (75)

Table 4

Functional and Territorial Amendments
By Total Percentage of Yea Votes
(In Recorded Roll and Teller Votes)

	Functional	Territorial
Decisive Vote (0 - 40% 61 - 100%)	59%	79%
Close Vote (41 - 60%)	41	21
Total	<u>100%</u> (41)	<u>100%</u> (34)

Table 5

Percentage of Amendments Passed and Not Passed
Per Subject Area

	<u>Functional</u>	<u>Territorial</u>
Passed	63%	41%
Failed & Tabled	39	59
Total	<u>100%</u> (87)	<u>100%</u> (75)

Table 6

Percentage of Functional and Territorial Amendments
By Type of Bill

	<u>Authorization</u>	<u>Appropriation</u>
Functional	50%	66%
Territorial	50	34
Total	<u>100%</u> (127)	<u>100%</u> (35)

Table 7

Partisan and Ideological Factors Affecting Vote
on Functional and Territorial Amendments

	Functional	Territorial
Partisanship ¹		
Lower	58%	67%
Higher	42	33
	100%	100%
	(36)	(21)
Significance of Split between Northern and Southern Democrats ²		
Significant	53%	29%
Not Significant	47	71
	100%	100%
	(36)	(21)

¹ A vote was considered more partisan if the percent Democratic "Yea" differed by more than 30 from the percent Republican "Yea".

² As determined by Congressional Quarterly.

Table A 1
Percentage of Each Subject Area
In Each Educational Policy

Policy Area	Funding Level	Procedural Riders & Other	Busing	Territorial Distribution of Funds	Functional Purpose
Impact Aid	33%	14%	0	36%	7%
NDEA Title III & ESEA Title IV-B	3%	2%	0	0	6%
ESEA Title I	24%	9%	0	48%	14%
Bilingual Educ.	5%	0	0	0	3%
Handicapped	5%	5%	0	7%	8%
Vocational Educ.	8%	0	0	3%	13%
ESAA of 1972	5%	24%	77%	1%	26%
General	18%	46%	23%	5%	23%
Total (372)	101% (66)	100% (87)	100% (57)	100% (75)	100% (87)

Table A 2
Number of Amendments Offered
Per Year in Office

	Kennedy (3 yrs.)	Johnson (5 yrs.)	Nixon (6 yrs.)	Ford (2 yrs.)	Carter (4 yrs.)
Functional	1.7	2.2	3.2	16.5	4.8
Territorial	0.7	3.2	2.8	13.5	3.2
Total Avg.	<u>2.3</u> (7)	<u>5.4</u> (27)	<u>6.0</u> (36)	<u>30.0</u> (60)	<u>8.0</u> (32)

FOOTNOTES

¹Earlier versions of this paper were presented before the Seminar on Law and Governance, San Francisco, 1981, chaired by David Kirp and sponsored by the Institute of Finance and Governance in Education, Stanford University, and before the faculty seminar of the Department of Political Science, University of Chicago. Barry Rabe and Kenneth Wong provided research assistance.

²A fuller discussion of federal programs, including the politics of their passage and their manner of implementation can be found in Paul E. Peterson, Federal Policy and American Education. Twentieth Century Fund Report, forthcoming.

³Some of the best studies in this literature include: Jerome Murphy, "Title I of ESEA: The politics of implementing federal education reform", Harvard Educational Review 1970, 41:35-63. Martha Derthick, New Towns in Town: why a federal program failed. Washington, D.C.: Urban Institute, 1972. Jeffrey Pressman and Aaron Wildavsky, Implementation. Berkeley: University of California Press, 1973. Eugene Bardach, The Implementation Game. Cambridge, Mass: MIT Press, 1977.

⁴See Edmond Burke, Burke's Politics: Selected Writings and Speeches on Reform, Revolution and War. Eds by Ross Hoffman and Paul Levack. New York: A.A. Knopf, 1959.

⁵Theodore Lowi, The End of Liberalism. New York: W. W. Norton & Co., 1979.

⁶Ethel Green, Representative from Oregon, was known as the school-oriented Congresswoman, but it was her chairmanship of a key committee, not her constituency identification, that earned her this title.

⁷For example, the 1974 amendments, section 3(d) (1) of PL874, established two different types of local education agencies for purpose of computing allocation. In the first are those in which children who live on federal property with a parent employed on federal property, or who live on Indian lands, or who live on federal property and have a parent on active duty in the uniformed services, have been found to number at least 25 percent of all the children in ADA at an agency's schools. In the second category are agencies in which these children are less than 25 percent of the total ADA. Based on these categories, the 1974 amendments provided complicated formulas for calculating the amount of entitlements for each school district. See U.S. Office of Education, Administration of Public Laws 81-874 & 81-815, June 30, 1976.

⁸As stated in Section 203 (a) (2) of the 1965 ESEA Act, the allocation formula was based on the product by multiplying the aggregate of the number of children aged five through seventeen

from (a) families below the poverty line, and (b) families with income exceeding \$2000 in the form of Aid to Families with Dependent Children (AFDC) under Title IV of the Social Security Act, by (c) one half of the average per pupil expenditure in the state for the second preceding year. See Public Law 89-10, 89th Congress, H.R. 2362. April 11, 1965.

⁹Congressional Almanac Quarterly, 17, August 1974, p. 2248.

¹⁰Ibid., 16, March 1974, p. 701.

¹¹Ibid.

¹²Peterson, Chapter IV.

¹³U.S. National Institute of Education, Administration of Compensatory Education (Washington, D.C.; U. S. Department of Health, Education and Welfare, 1977).

¹⁴On the issue of limits to organizational intelligence more generally, see such classics as Herbert Simon, Administrative Behavior, New York: MacMillan, 1957; and Robert Dahl and Charles Lindblom, Politics, Economics and Welfare, New York: Harper and Row Publishers, 1953.

¹⁵On minimum winning coalition, see William H. Riker, The Theory of Political Coalition, New Haven, Connecticut: Yale University Press, 1962.